

CHAPTER 7 : Mineral Concession, Fees and Royalties

7.01 Results of Audit

Test check of the records of mining offices, conducted in audit during the year 2001-02, revealed under assessments and losses of rent, royalty, fee etc. amounting to Rs.525.54 crore in 202 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non-initiation of certificate proceedings	13	153.22
2.	Non-levy of interest	16	52.36
3.	Non/short levy of royalties and cesses	27	5.92
4.	Non-levy of penalty/fees	43	4.71
5.	Short levy of royalty due to downgrading of coal	4	1.53
6.	Non/short levy of dead rent/ surface rent	15	0.52
7.	Non-levy of royalty on coal consumed by workmen	1	0.46
8.	Non-levy of Stamp duty and Registration fee	11	0.29
9.	Non/short levy of auction money due to non / irregular settlement of sand <i>ghats</i>	12	0.29
10.	Other cases	60	306.24
Total		202	525.54

During the year 2001-02 the concerned department accepted under-assessment etc. of Rs.344.99 crore involved in 27 cases of which 3 cases involving Rs. 335.68 crore were pointed out in audit during 2001-02 and rest in earlier years.

A few illustrative cases including a Review, “**Mineral Receipts**”, involving revenue effect of Rs. 48.03 crore are given in the following paragraphs:-

7.02 Mineral Receipts

7.02.01 Introduction

The activities prospecting and mining of minerals are governed by the Mines and Minerals (Regulation and Development) (MMRD) Act, 1957 and the Mineral Concession (MC) Rules, 1960 framed thereunder. The mining of minor minerals in Jharkhand is governed by the Bihar Minor Mineral Concession (BMMC) Rules, 1972.

Mineral receipts comprise mainly royalty, dead rent, surface rent, application fees for lease/permit/prospecting licence, fines and penalties, interest for belated payment of dues etc.

The state of Jharkhand is very rich in mineral resources, important minerals being coal, iron ore, bauxite, mica, china clay (major minerals) and building stone, brick earth, sand etc. (minor minerals).

7.02.02 Organisational set up

The Commissioner cum Secretary is the head at the government level and the Director of Mines is the head of the department. The Director of Mines is assisted by Additional Director of Mines, Dy. Directors of Mines (DDMs) and District Mining Officers (DMOs) /Assistant Mining Officers (AMOs). The DMOs/ AMOs are responsible for assessment, levy and collection of royalty and other mining dues.

7.02.03 Scope of audit

With a view to evaluating the adequacy and effectiveness of the system and procedure and the position of compliance of the provisions of the MMRD Act, 1957, the MC Rules, 1960 and the BMMC Rules, 1972 framed thereunder, a review of relevant records pertaining to the years 1996-97 to 2000-01 was conducted in 11¹ out of 18 District Mining Offices, 3² out of 5 Circles and the Directorate of Mines during the period between October 2001 and May 2002. Certain important points relevant for the review detected during earlier audits have also been incorporated in the review.

¹ Bokaro, Chaibasa, Dhanbad, Daltonganj, Giridih, Hazaribagh, Jamshedpur, Latehar, Pakur, Ranchi & Sahebganj.

² Dhanbad, Hazaribagh and Ranchi.

7.02.04 Highlights

(i) In Hazaribagh district, a private sector coal company did not pay royalty of Rs.2.47 crore for consumption of coal during March 1999 to February 2001.

[Paragraph 7.02.06 A(a)(I)]

(ii) In 2 districts, there was short levy/loss of royalty of Rs.1.29 crore due to downgrading /application of incorrect rate.

[Paragraph 7.02.06 A(a)(3) and (4)]

(iii) In the districts of Bokaro, Dhanbad and Ranchi, 22.03 lakh tonnes of coal remained undisposed of for various periods from 8 months to 4 years resulting in non- levy of royalty of Rs.18.12 crore.

[Paragraph 7.02.07]

(iv) In 11 districts, works contractors used minerals procured illegally in works, for which royalty and price were recoverable, but the Works Departments deducted only royalty, which resulted in non-recovery of price of Rs.9.32 crore.

[Paragraph 7.02.10]

(v) In 6 districts, 99 certificate cases were required to be instituted for recovery of Rs.1.73 crore but were not instituted.

[Paragraph 7.02.11]

(vi) Certificate cases covering Rs.7.12 crore in respect of 7 districts remained undisposed of due to lack of initiative and promptness on the part of Requiring Officers.

[Paragraph 7.02.14(c)]

7.02.05 Trend of revenue

The variation between budget estimates and actuals in respect of undivided Bihar during the years 1996-97 to 1999-2000 and that in respect of Jharkhand during the year 2000-2001 (after separation of Jharkhand from Bihar) was noticed as under:-

(Rupees in crore)				
Year	Budget estimates	Actuals	Short (-) Excess (+)	Percentage of variation
1996-97	825.00	820.28	(-) 4.72	(-) 0.57
1997-98	860.00	808.55	(-) 51.45	(-) 5.98
1998-99	1025.00	740.92	(-) 284.08	(-) 27.72
1999-2000	1050.00	707.56	(-) 342.44	(-) 32.61
2000-01*	350.00	409.92	(+) 59.92	(+) 17.00

* (The figures pertain to the period 15.11.2000 to 31.03.2001 only as the State of Jharkhand came into existence from 15 November 2000)

The above table reveals wide variation between the budget estimates and the actuals and particularly during 1998-99 and 1999-2000 with actuals falling short of budget estimates. The reasons for variation, though called for (June 2002), were not furnished by the department.

7.02.06 A: Major Mineral

Non/short levy of royalty/dead rent

Under mining laws, the holder of a mining lease is required to pay royalty in respect of any mineral removed or consumed by him from the leased area or dead rent, whichever is higher. However, he shall not be liable to pay any royalty in respect of any coal consumed by a workman engaged in a colliery provided that such consumption by the workman does not exceed one third of a tonne per month.

(a) *Non/short recovery of royalty*

In 5 District Mining Offices, it was noticed (between September 2001 and March 2002) that royalty of Rs.4.07 crore was either not recovered or recovered short due to non-levy of royalty on coal consumed or due to application of incorrect rate during the period April 1997 and March 2001 as detailed in the table below:

Sl. No	Name of DMO	Mineral	Period involved	Amount (Rupees in lakh)	Nature
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
1	Hazaribagh	Coal	3/99 to 2/2001	247.24	Non-levy of royalty on coal consumed
2	Hazaribagh	do	3/2000 to 2/2001	12.83	Application of incorrect rate of royalty.
3	Ranchi	do	3/99 to 4/2000	102.62	Short levy of royalty due to downgrading
4	Dhanbad	do	4/99 to 3/2001	26.47	Application of incorrect rate

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
----------	----------	----------	----------	----------	----------

5	Giridih	do	4/2000,1/2001 & 2/2001	8.06	Non- levy of royalty on coal transferred.
6	Hazaribagh	Sand	4/97 to 8/2000	5.53	Application of incorrect rate of royalty
7	Jamshedpur	By product of copper	3/2000 to 2/2001	3.83	Royalty short paid
	Total		4/97 to 3/2001	406.58	

(b) Non/short levy of dead rent

In 3 District Mining Offices (Chaibasa, Jamshedpur and Latehar), it was noticed (between September and December 2001) that in respect of 9 lessees of major minerals (coal, copper, bauxite & iron-ore), dead rent of Rs. 1.19 lakh was levied instead of Rs.31.41 lakh leviable for different periods between January 1998 and March 2001 resulting in non-levy/short levy of dead rent amounting to Rs.30.22 lakh.

B. Minor Mineral

(i) Under the BMMC Rules, 1972 read with MMRD Act, 1957, the holder of a mining lease is liable to pay royalty on minerals dispatched/consumed. Rules also provide for verification of lessee's monthly returns by the assessing officer for assessment of demand. According to decision of the Mines Commissioner, Bihar (September 1996), the mineral (stone) removed from its original place of occurrence attracted levy of royalty.

(a) In 2 Districts (Pakur and Sahebganj), it was noticed (October 2001) in course of test checks of demands that 14 lessees of stone had paid royalty on 89,99,600 cft. stone chips instead of on 99,99,549 cft. which were removed from their original place of occurrence resulting in short levy of Rs.7.07 lakh.

(b) In Pakur District, it was also noticed that in 2 cases, production of 5,83,200 cft. of stone chips and ballasts between April and October 2000 against stone dust of 82,300 cft. was shown in the monthly returns. On the basis of dust, the production of chips and ballasts should have been 11,63,700 cft. Thus, the production of stone chips and ballasts to the extent of 5,80,500 cft. was suppressed on which royalty of Rs.4.11 lakh was leviable.

Thus, the total short levy of royalty came to Rs.11.18 lakh.

On this being pointed out, the AMO, Pakur stated (October 2002) that demands for Rs.4.56 lakh had been raised (August 2002) and certified (2002-03).

(ii) Evasion of royalty for want of site inspection and sectional measurement

The BMMC Rules, 1972, require every lessee to submit to the DMO every month a return of raising and despatch for minor minerals by the 15th of the following month. The DMO shall assess rent/royalty payable by lessee after such enquiry and verification, as he may deem necessary. With a view to checking leakage of royalty, the government in a circular issued in October 1986 prescribed physical verification and quarterly measurement of mines / quarries for the authenticity of the figures of raising and despatch shown in the monthly returns. The DMO is required to inspect each mine/quarry at least once a year and the DDM is required to inspect 10 per cent of mines/quarries under his jurisdiction. Further, in a meeting of departmental officers (May 1993) chaired by Minister of Mines, it was upheld that despatch of less than 60,000 cft of stone per annum was not commercially viable.

In 3 District Mining Offices³, it was noticed (between September 2001 and April 2002) that demands for dead rent/royalty for Rs.2.75 lakh were raised in the case of 22 lessees of stone on the basis of monthly returns without taking sectional measurement or carrying out inspections, against minimum royalty of Rs.11.88 lakh based on minimum quantity of dispatch held to be commercially viable, during the period from 1996-97 to 2000-01. Assessments in these cases were finalized without taking into consideration the minimum quantity of dispatch of mineral as decided in the meeting in May 1993. This resulted in possible short levy of royalty (minimum) amounting to Rs.9.13 lakh.

7.02.07 *Non- levy of royalty due to mineral lying in stock*

Under the MMRD Act, 1957, payment of royalty is to be made on the quantity of minerals removed or consumed from the leased area. The Hon'ble Patna High Court, Ranchi Bench also held {CWJC No. 2477 of 1996(R)} that the lessee is liable to pay royalty on the coal extracted by it.

Test check of records of 3 District Mining Offices (Bokaro, Dhanbad and Ranchi) revealed (between January and April 2002) that 22.03 lakh tonnes of different grades of coal was lying in stock for various periods ranging from 8 months to 4 years. In these cases, though coal extracted remained in the stock, demands for royalty were not raised and realised in accordance with above judicial decisions. This resulted in non-levy of royalty of Rs.18.12 crore.

³ Bokaro, Hazaribagh and Jamshedpur

7.02.08 *Short-levy of surface rent*

Under the MC Rules, 1960, the lessee of a mine is liable to pay surface rent in respect of area used for the purpose of mining operation at such rate not exceeding land revenue and cesses assessable on the land. The Government of Bihar decided (1965) that since mining operation was a commercial activity, surface rent should be charged accordingly.

In 3 Districts (Gumla, Hazaribagh and Jamshedpur) it was noticed (between December 2000 and September 2001) that 7 lessees used 4350.41 acres of land out of the leased area of 25153.03 acres during the period September 1998 to March 2001. Surface rent payable on 4350.41 acres worked out to Rs. 39.19 lakh, whereas the lessees paid Rs.0.22 lakh only at non-commercial rate resulting in short levy of surface rent of Rs.38.97 lakh.

On this being pointed out (between December 2000 and September 2001), the AMO Gumla stated that the matter would be referred to the department for instruction while the AMO Jamshedpur stated (December 2001) that demand would be raised.

7.02.09 *Non-levy of interest*

Under the MC Rules, 1960 and the BMMC, Rules 1972, the state government may charge simple interest at the rate of 24 per cent per annum on any rent/royalty or fee or other sum due to the government.

In 4 districts⁴, it was noticed (between May 2001 and March 2002) that in 77 cases, mining dues were not paid in time. As such an amount of Rs.32.04 lakh as interest was leviable but not levied

7.02.10 *Non-levy of penalty for minerals illegally raised and consumed in works*

Under the MMRD Act, 1957 and the BMMC Rules, 1972, no person shall undertake any mining operation in any area, except under and in accordance with the terms and conditions of a mining lease. Whenever any person raises, without any lawful authority, any mineral from any land, the state government may recover from him, the price thereof, rent, royalty or tax as the case may be. The Rules provide that the work contractor shall submit to Works Department an affidavit in Form 'M' and particulars in Form 'N' indicating therein the source of purchase of minerals, price paid and quantity procured along with the bill. The Works Department, in turn shall forward the photocopies of forms 'M' and 'N' to the Mining Officer for verification of the

⁴ Chaibasa, Dhanbad, Hazaribagh and Jamshedpur.

details. If the details furnished in form 'M' and 'N' are found to be false, it shall be presumed that the mineral was obtained by illegal mining and the defaulter shall pay the price of the mineral equivalent to royalty.

The records of 11 District Mining Offices⁵ revealed (between April 1999 and November 2001) that royalty of Rs 9.32 crore deducted from the bills of contractors by Works Department was received by DMOs without the requisite affidavits in form "M" and particulars in form "N" which showed that instead of making payment of royalty to the lessees of mines, the royalty was got deducted from their bills by the contractors. The contractors were liable to pay price of Rs 9.32 crore.

On this being pointed out, the DMO/AMO Bokaro and Hazaribagh stated (March and September 2001) that levy of penalty came under the discretionary power of the DMO/AMO. The reply is not tenable as submission of the prescribed affidavit and particulars by contractors is mandatory. Other Mining Officers stated that matter had been referred to the works department for compliance.

7.02.11 *Non- initiation of certificate proceedings*

Under the MMRD Act, 1957, the MC Rules, 1960 and the BMMC Rules, 1972, royalty, dead rent and other mining dues etc are required to be paid within the prescribed period. In case of default, the recovery is to be made as arrears of land revenue. The government ordered (July 1986) that dues in respect of mining leases remaining unpaid for six months must be certified.

A review of Demand, Collection and Balance Registers and Registers of Requisitions for certificates relating to 6 District Mining Offices⁶ revealed (between February 2001 and September 2002) that in 99 cases involving mining dues of Rs.1.73 crore pertaining to various periods between September 1990 and September 2001, certificate proceedings were not initiated till date.

7.02. 12 *Arrears of revenue*

(i) *Position of arrears*

The position of arrears at the end of 31 March 2001, though called for (October 2001) has not been supplied by the department/government. In the absence of the information, the balance dues at the end of March 2001 and their age-wise pendency could not be ascertained.

(ii) *Position of certified dues*

⁵ Bokaro, Chaibasa, Dhanbad, Daltonganj, Giridih, Hazaribagh, Latehar, Jamshedpur, Pakur, Ranchi and Sahebganj.

⁶ Bokaro, Chaibasa, Dhanbad, Hazaribagh, Latehar and Ranchi.

The year-wise position of certified cases pending finalisation and amount locked therein from 1996-97 to 2000-2001 indicating number of cases and amount involved were called for (October 2001) followed by reminder (May 2002) from the government but these have not been furnished.

However, as per the information received from 5 DDM –cum-Certificate Officers⁷, 11042 cases involving revenue of Rs 376.20 crore were pending as on 31 March 2001.

7.02.13 Under reporting of certified arrears

The figures of certified cases worked out by audit on the basis of the registers of certificate cases (Register 10) in respect of districts and those reported by the concerned DDMs cum COs to the Director of Mines revealed huge variations. The authenticity of the figures reported was doubtful as there appeared heavy suppression of certified dues amounting to Rs.157.34 crore upto March 2001 as detailed below:-

District	As reported by (Deptt) DDMs		As per Register 10		Suppression	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
Ranchi	1766	8.40	1886	57.31	120	48.91
Gumla	234	0.78	280	5.50	46	4.72
Giridih	408	16.44	345	16.70	(-) 63	0.25
Dhanbad	1404	250.93	1675	352.59	271	101.67
Bokaro	843	23.98	776	25.77	(-) 67	1.79
Total:	4655	300.53	4962	457.87	307	157.34

7.02.14 Deficiencies in pursuance of execution of certificates

As per instruction of the Board of Revenue, the Requiring Officer (RO) and the Certificate Officer (CO) are jointly responsible for the prompt disposal of certificate cases and are bound to bring to each others notice and if necessary, to the notice of the Collector, any undue delay. The RO is primarily responsible for systematic application for certificate, the prompt disposal of objection and the early application for execution. The CO is also responsible for prompt disposal of certificate cases.

A test check of Register 10 of 3 DDMs cum COs (Dhanbad, Hazaribagh and Ranchi) alongwith case records in the light of Board's instruction and provisions of the PDR Act revealed the following deficiencies.

(a) Abnormal pendency

⁷ Dhanbad, Dumka, Hazaribagh, Palamau, Ranchi.

Year wise break up of certificate dues was not made available by the department. However, Register 10 maintained by COs revealed that certificate cases instituted since 1966-67 onward were still pending for disposal. The position of pendency of cases above 5 years as ascertained in respect of 4 districts⁸ was as under:-

(Rupees in crore)			
Sl. No.	Period	No. of Cases	Amount
1.	Above 20 years	377	2.46
2.	Above 15 years & upto 20 years	243	1.42
3.	Above 10 years & upto 15 years	926	5.03
4.	Above 5 years & upto 10 years	1408	66.01
	Total	2954	74.92

(b) Pendency at the stage of issue of notice

When a certificate is filed with the CO, he shall serve on the certificate debtor, a notice in the prescribed form alongwith a copy of the certificate for recovery of dues.

Test check of Register 10 in 5 districts⁹ revealed that 97 certificate cases involving Rs.35.21 lakh instituted between 1990-91 and 1999-2000, the notices were not issued and served by the certificate officers on the certificate debtors.

(c) Lack of initiative and promptitude on the part of ROs

Under the PDR Act, the certificate debtor may, within thirty days from the service of the notice, file a petition, denying his liability, in whole or in part. The CO may call for para wise comments on the petition and additional information relevant for the disposal of the certificate cases from the RO.

Test check of case records together with Register 10 in respect of 7 District Mining Offices¹⁰ disclosed that 10 certificate cases instituted between 1975-76 and 1996-97 involving dues of Rs.7.12 crore were pending with ROs either for want of para wise comments or certain information called for by COs concerned as per details given below:

⁸ Bokaro, Gumla, Giridih & Ranchi.

⁹ Bokaro, Dhanbad, Gumla, Lohardaga & Giridih.

¹⁰ Bokaro, Dhanbad, Giridih, Gumla, Hazaribagh, Koderma & Ranchi.

Sl. No.	Certificate Case NO. & Year/ District	Name of certificate debtors	Amount (Rupees in lakh)	Remarks
1	106 (MR)/94-95 Ranchi	M/s Central Coalfields Ltd.	459.17	Documents in support of demand not produced since 10/95
2	38(MR)/94-95 Ranchi	M/s Central Coalfields Ltd.	82.38	Particulars in support of demand not furnished since 9/95
3	43/80-81 Bokaro	Sri Kumar Kamlesh Maldahiyar	70.63	Information about debtor's successor called for (14.11.93) not furnished by RO.
4	32/94-95 Dhanbad	M/s Bharat Coking Coal Ltd.	27.03	Information called for (11.3.97) from RO not furnished
5	85/94-95 Dhanbad	M/s Bharat Coking Coal Ltd.	18.98	Para-wise comment called for (6.3.97) not furnished
6	33/96-97 Koderma	S/Shri Hemant Lal Paul & Sanjay Ram Paul	18.80	Non appearance of certificate holder on several occasions since 2/99
7	59/75-76 Bokaro	Shri Bhagat Singh Rathod	16.70	Details of property called for (3.10.77 and 2.2.78) not furnished by RO
8	143/93-94 Dhanbad	M/s Bharat Coking Coal Ltd.	10.19	Parawise comment called for (14.2.98) not furnished
9	34/96-97 Koderma	Shri Arbind Kumar	7.05	Non appearance of the certificate holder on several occasions since 4/99
10	8/93-94/ Giridih	M/s Shiv Shakti Stone Crusher	1.47	Whereabouts of Certificate Debtors called for (2.5.94) not furnished by RO
	Total		712.40	

(d) Distress warrants issued but not executed

Under the B & O PDR Act, a CO may order execution of a certificate by attachment and auction, of any property, or by arresting the certificate debtor and detaining him in civil prison, or by both the methods.

A test check of certificate case records along with Register 10 pertaining to 7 District Mining Offices¹¹ revealed (between April 2001 and April 2002) that 270 certificate cases for recovery of dues of Rs.76.80 lakh instituted between 1975-76 and 1999-2000 remained pending as distress warrants issued could not be executed. A few illustrations are as under:

Sl.No.	Certificate Cases No. & Year/District	Name of Certificate Debtors	Distress warrants issued on	Amount
1	8/97-98/Gumla	Girish Kr. Popat	October 2000	7.98
2	123/75-76/Bokaro	J. K. Ojha	May 1993	5.45
3	24/90-91/Giridih	S/s Gowa Mica Mining Co. Ltd.	December 1993	4.18
4	63/75-76/Bokaro	Jai Lal Choudhary	June 1976	4.17
5	60/75-76/Bokaro	K.. N. Goswami	February 1981	3.98
6	45/99-2000/Gumla	Md. Salimuddin Ansari	February 2001	1.73
7	1/85-86/Lohardaga	M/s Rohtas Industries Ltd.	September 1997	1.42
8	28/96-97/Giridih	Ashok Modi	November 1997	1.20
9	12/94-95/Gumla	M/s Constn. Co.	August 1999	1.04
10	14/93-94/Gumla	Rajesh Pandey	August 1999	0.84

The responsibility of execution of distress warrants was mainly of the Police department but the pursuance of the same was required to be made by the ROs of the Mining Department. This was not done effectively due to lack of coordination and cooperation between the Mining and Police departments

¹¹ Bokaro, Dhanbad, Giridih, Gumla, Hazaribagh, Lohardaga and Ranchi

(e) Certificate proceedings withheld for inordinate period

As per instruction of the Board of revenue, the RO and the CO are jointly responsible for prompt disposal of certificate cases and are bound to bring to each other's notice and if necessary to the notice of the Collector, any undue delay. The RO is also responsible for monitoring, from time to time, the progress of the execution proceedings.

In the course of review of Register 10 with case records pertaining to Bokaro and Dhanbad, it was noticed (April 2002) that 56 certificate cases instituted between 1964-65 and 1993-94 covering an amount of Rs.1.55 crore were pending, as proceedings in these cases remained withheld for years. The ROs neither brought the delays to the notice of the CO nor to the Collector. A few illustrations are as under:

(Rupees in lakh)

Sl.No.	CC No. & Year/District	Name of C Dr	Date from which withheld	Amount
1.	23M/70-71/Dhanbad	Raniganj Coal Association	October 1974	11.52
2.	28M/72-73/Dhanbad	Raniganj Coal Association	September 1974	11.26
3.	71M/69-70/Dhanbad	East India Coal Co.	September 1974	11.08
4.	27M/72-73/Dhanbad	R. C. A. Ltd.	September 1974	9.67
5.	14M/72-73/Dhanbad	Lodno Coal Co.	September 1974	5.61
6.	23M/72-73/Dhanbad	North West Coal Co.	September 1974	7.98
7.	58M/70-71/Dhanbad	M/s East India Coal Co.	October 1974	5.75
8.	87M/69-70/Dhanbad	Central Kuridih Coal Co.	September 1970	5.38
9.	5M/68-69 Dhanbad	Smt. Krishna Kumari	September 1974	4.83
10.	127/75-76/ Bokaro	Gopal Nr. Singh	May 1976	3.45

(f) Non-stoppage of illegal mining by chronic defaulters

Under the BMMC Rules, 1972 and the notification of government issued thereunder, every brick kiln owner/brick earth remover shall pay consolidated royalty in one instalment before permit is issued. In case of default, the brick kiln/ earth remover shall not be allowed to carry on the business and the competent officer shall stop such business; for non-payment of dues in time, certificate case should be instituted against the defaulter

In the course of test check of Register 10 of 4 District Mining Offices¹², it was noticed (between September 2001 and May 2002) that against 13 brick kiln owners, 57 cases were instituted during the period between 1986-87 and 2000-2001 for dues of Rs.13.42 lakh. Although the brick kiln owners continued to engage in illegal mining of brick earth and certificate cases were instituted repeatedly (3 to 5 times), neither was the operation of brick kiln stopped nor recovery of dues effected.

7.02.15 Irregular remand of certificate cases

Under the PDR (Amendment) Act, 1993, the CO shall hear the petition, take evidence (if necessary) and determine whether the certificate debtor is liable for the whole or any part of the amount for which the certificate was signed and may set aside, modify or vary the certificate accordingly. There is no provision to remand the certificate cases to ROs under the PDR Act.

In the course of test check of Register 9 in respect of 4 District Mining Offices¹³, and Register 10 of respective COs, it was noticed (between May 2001 and April 2002) that 44 certificate cases involving Rs.1.43 crore were remanded (between 1989-90 and November 2001) to the ROs concerned. Moreover, the follow up action taken in respect of these cases, was not intimated to audit. This resulted in non-recovery of dues of Rs.1.43 crore.

7.02.16 Internal Control and Monitoring

In order to regulate the activities of a department in accordance with provisions of Acts and Rules and instructions and in order to monitor levy, demand and collection of revenue, existence of an internal control mechanism within the department is a must.

From the above findings, it is observed that the Mines and Geology Department does not have an effective internal control mechanism. On being enquired (March 2002) about internal control and monitoring in the Directorate of Mines (Jharkhand), it was stated (March 2002) that internal control was carried out through meetings at apex level and inspection by superior officers. The reply did not indicate existence of effective internal control and monitoring structure.

7.02.17 Recommendations:

Government may examine and consider-

- i) creation of a specific and definite mechanism for internal control to ensure appropriate and timely action for levy, collection and demand of revenue;
- ii) creation of mechanism for surprise checking of illegal mining and concealment of production;
- iii) making sectional measurement of quarries/mines compulsory in order to check evasion of royalty;

- iv) taking effective measures in co-ordination with the Police department for recovery of pending certificate dues.

The above findings were pointed out to the department (June 2002) and reported to the government (June 2002); their replies have not been received (January 2004).

7.03 Non-levy of royalty

Under the provisions of the MMRD Act, 1957, the holder of a mining lease shall pay royalty in respect of any mineral removed by or consumed by him or by his agent, manager, employee contractor or sub-lessee from the leased area at the rates prescribed by the government from time to time (specified in the Second Schedule).

The monthly returns submitted by a public sector coal company in respect of 2 collieries in Hazaribagh district for the year 1999-2000 revealed (March 2001) that while carrying forward the closing stock as opening stock during May, June and October 1999, there was reduction of stock of different grades of coal by 86455.66 MT on which royalty was leviable. Thus, failure on the part of the assessing officer to exercise proper checks resulted in non-levy of royalty amounting to Rs 82.86 lakh.

On this being pointed out (March 2001), the Assistant Mining Officer (AMO), Hazaribagh stated (March 2001) that demand would be raised after proper verification. Further reply has not been received (January 2004).

The case was reported to the Government (April 2002); their reply has not been received (January 2004).

7.04 Non/short levy of penalty

Under the BMMC Rules, 1972 and notification of government dated 27 March 1992 issued thereunder, every brick kiln owner/ brick earth remover shall pay royalty, before issue of permit based on categories of the brick kilns. In case of any person who removes minor mineral without valid lease/permit, he shall be liable to pay the price thereof and the government may also recover rent, royalty or taxes, as the case may be, for the period during which the land was occupied by him without any lawful authority.

In 13 District Mining Offices¹⁴, it was noticed (between September 2000 and March 2002) that 639 brick kilns (brick seasons between 1998-99 and 2000-01) were operated without payment of royalty and without valid permit. Out of these, in 636 cases no demand for recovery of price of mineral was raised as

¹⁴ Bokaro, Chaibasa, Daltonganj, Dhanbad, Dumka, Garhwa, Giridih, Gumla, Hazaribagh, Jamshedpur, Latehar, Lohardaga and Ranchi,

penalty while in 3 cases (Bokaro) demand for price of mineral as penalty was raised without reference to price of mineral. This resulted in non/short levy of penalty amounting to Rs. 74.28 lakh.

On these being pointed out (between October 2000 and March 2002), 4 Mining Officers¹⁵ stated (between December 2000 and October 2001) that there was no such provision. The reply is not tenable as operation of brick kilns without valid permits attracts the provision of Rule 40(8). Further reply has not been received (January 2004).

The cases were reported to the Government (April and May 2002); their replies have not been received (January 2004).

7.05 Loss of revenue due to non- execution of deeds of settlement

Under the BMMC Rules, 1972, settlement of sand is made for one calendar year by the Collector of a district by public auction, and a deed of settlement is to be executed on payment of stamp duty as prescribed in the Indian Stamp Act, 1899.

In 10 District Mining Offices¹⁶, 350 sand bearing areas were settled at Rs.5.48 crore for the years 2000 and 2001 without executing proper deeds of settlement as required under the Indian Stamp Act, 1899. Thus, the government had to forgo Rs. 34.41 lakh on account of stamp duty and surcharge leviable.

On these being pointed out (between September 2000 and March 2002), DMO Dhanbad and AMO Hazaribagh, Pakur and Bokaro stated (between September 2000 and November 2002) that registration is optional in such cases; hence stamp duty was not realisable. The reply is not tenable as a deed is required to be executed in all such cases. Further reply has not been received (January 2004).

The cases were reported to the Government (May 2002); their reply has not been received (January 2004).

7.06 Non-levy of royalty for illegal mining

Under the BMMC Rules, 1972, in case any person removes minor mineral without valid lease/permit he shall be liable to pay the price thereof as penalty and the government may recover from such person rent, royalty or taxes, as the case may be, for the period during which the land was occupied by such person without any lawful authority.

¹⁵ Bokaro, Giridih, Hazaribagh. and Lohardaga.

¹⁶ Bokaro, Chaibasa, Daltonganj, Dhanbad, Dumka, Garhwa, Hazaribagh, Jamshedpur, Pakur, and Ranchi.

In Singhbhum (East), Jamshepur district, it was noticed (September 2001), that a contractor used 60000 Cu.m of ordinary earth and 3500 Cu.m. of stone through illegal mining in the construction of a dam. Though the case was detected by the department and a show cause notice was served (February 2000), the demand for royalty and price of mineral equivalent to the royalty was not raised. This resulted in non-levy of royalty of Rs.19.75 lakh including price of minerals.

On this being pointed out (September 2001), the AMO, Jamshepur stated (September 2001) that the matter would be examined. Further reply has not been received (January 2004).

The case was reported to the Government (May 2002); their reply has not been received (January 2004).

7.07 Non/ short levy of penalty for non- submission of monthly returns

Under the BMMC Rules, 1972, every lessee or permit holder is required to submit every month, a return in the prescribed form for extraction and removal of minor minerals by fifteenth day of the following month to which it relates. In case a lessee or a permit holder fails to furnish the required return within the prescribed period, he shall be liable to pay as penalty a sum of Rs 20 for every day after the expiry of the prescribed date subject to a maximum of Rs 2500.

In 5 District Mining Offices¹⁷, it was noticed (between February 2001 and January 2002) that 51 lessees in 462 cases defaulted in furnishing returns within the prescribed period. The delay in submission of returns ranged from 131 to 1771 days for various periods falling between February 1997 and March 2001 for which penalty of Rs.11.55 lakh was leviable. However, only in case of 2 lessees of Garhwa and Chaibasa a penalty of Rs.0.20 lakh was imposed by the assessing officers. Thus, there was non/short levy of penalty of Rs. 11.35 lakh.

On these being pointed out (between February 2001 and January 2002), 4 Mining Officers¹⁸ stated (between February 2001 and January 2002) that the matter would be examined while the AMO, Bokaro stated (March 2001) that show cause notices had been served. Further reply has not been received (January 2004).

The cases were reported to the Government (April and May 2002); their reply has not been received (January 2004).

¹⁷ Bokaro, Chaibasa, Garhwa, Koderma and Ranchi.

¹⁸ Chaibasa, Garhwa, Koderma and Ranchi.